

?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

%DATED: 11.02.2019

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

+C.R.P.(PD)(MD)No.271 of 2019

and

C.M.P.(MD)No.1323 of 2019

#1.J.Issac

2.G.Raja Sundaram ... petitioners

vs.

\$M/s.Shriram Transport

Finance Company Limited,

Represented by its Power of Attorney,

K.Rajesh Kumar

3/18/6, M.S.P. Tower, Second Floor,

Palayamkottai Road,

Opposite to Collector Office,

Thoothukudi. ... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the proceedings in fair and decreetal order in I.A. No.286 of 2015 in Ar.O.P. No.Unregistered of 2015 on the file of the Principal District Judge, Thoothukudi dated 03.12.2018 and set aside the same.

!For petitioners : Mr.B.N.Raja Mohamed

^For Respondents :

:ORDER

This Civil Revision Petition has been filed to to set aside the order in I.A. No.286 of 2015 in Ar.O.P. No.Unregistered of 2015 on the file of the Principal District Judge, Thoothukudi, dated 03.12.2018

2.I.A. No.286 of 2016 was filed by the petitioners to condone the delay of 161 days in filing the appeal against the award passed by the Arbitral Tribunal in Ar.O.P.No.301 of 2014, dated 30.06.2014. In the affidavit, the petitioners have contended that the first petitioner was suffering from jaundice and the same was mingled with blood. Therefore, the petitioners preferred the petition with the delay of 161 days.

3.In the counter, the respondent contended that the award was passed by the Arbitrator at Tirunelveli and the said court has the original jurisdiction and whereas the petition filed before the Principal District Court, Thoothukudi, is not maintainable. It is also stated that the copy of the award had been received by the first petitioner on 09.07.2014 and the second petitioner had refused to receive the award. The petitioners ought to have filed a petition on or before 08.10.2014 and even with a delay petition

on or before 07.11.2014, but the petitioners filed a petition with an inordinate delay of 274 days.

4.The Trial Court being the Principal District Court, Thoothukudi, has analyzed the said facts and the Trial Court has given a finding that the first petitioner received the award on 09.07.2014 and the second petitioner refused to receive the award. The petitioners in support of their petition, averred that the first petitioner was suffering from jaundice but no relevant documents were placed on record for the same. The Trial Court further had given a finding that the petitioners filed the petition after three years for which no reliable reasons has been stated by the petitioners. Therefore, the Trial Court dismissed the petition filed by the petitioners. Aggrieved over the same, the present Civil Revision Petition has been filed.

5.Heard the learned counsel for the petitioners.

6.The learned counsel for the petitioners submitted that the petitioners have got valid grounds in the appeal but the Aribtral Tribunal has not considered the same and however, the petitioners have right to make representation before the Appellate Forum. The learned counsel for the petitioners further submitted that the award passed by the Tribunal is in violation of principles of natural justice.

7.The learned counsel for the petitioners submitted that without considering the facts of the case, the delay ought to have considered by the Appellate Court by allowing the petition. But the Appellate

Court had caused lot of suffering to the petitioners by way of prevention.

8.Considering the facts and circumstances of the case, this Civil Revision Petition is dismissed and the Court below is directed to dispose of the Execution Proceedings as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

To:

The Principal District Judge,
Thoothukudi.